

CHAPTER V
RULES, REGULATIONS AND PROCEDURES FOR LICENSING
WATER-WELL CONTRACTORS AND OTHER DRILLERS

As announced in the October 1985 issue of the LOUISIANA REGISTER, the Rules, Regulations and Procedures, stated herein, were prepared by the Louisiana Department of Transportation and Development, Office of Public Works, hereafter referred to as the "Department", in accordance with R.S. 38:3098 through R.S. 38:3098.8.

The Rules, Regulations and Procedures stated herein became effective on November 1, 1985 and preempted the Rules, Regulations and Procedures which had been in effect since April 21, 1983.

SECTION 5.1.0.0.

PURPOSE

The purpose of the Rules, Regulations and Procedures, stated herein, is to provide for a fair and impartial means for the licensing of and the development of minimum qualifications and standards of conduct for those persons, firms or corporations engaged or desiring to engage in the business of drilling or reworking water wells, drilling monitoring wells, heat pump wells or holes, geotechnical boreholes and/or plugging and abandoning wells or holes, excluding oil and gas wells.

The intent of the regulations and procedures is to minimize the chances of contaminating aquifers that are drinking water sources or potential sources, by those who are not qualified to drill or construct wells or holes and to reduce health and safety hazards associated with drilling and construction of such wells or holes.

For glossary of terms, refer to Appendix I.

SECTION 5.2.0.0.

DEFINITION OF CONTRACTOR/DRILLER

Because the words "contractor" and "driller" are used interchangeably in R.S. 38:3098 and because it was the intent of the State Legislature to license "contractors" and not those persons who operate the rig and/or perform labor or services on a rig or site at the direction and under the personal supervision of a licensed contractor (R.S. 38:3098D), the word "contractor" or "driller" in these regulations is used to refer to the person, firm, or corporation who engages in the business of drilling or reworking water wells, drilling monitoring wells, heat pump wells or holes, geotechnical boreholes and/or plugging and abandoning wells or holes, excluding oil and gas wells.

SECTION 5.3.0.0.

WELLS AND HOLES THAT SHALL BE

DRILLED BY A LICENSED CONTRACTOR

The following wells and holes shall be drilled, or constructed by a licensed contractor (driller) who is duly licensed by the Department:

- All water wells, regardless of use or type
- Water test holes and pilot holes
- Monitoring wells
- Observation wells
- Heat pump wells and holes
- Geotechnical boreholes

Additionally, reworking of water wells, as well as plugging and abandoning wells and holes, excluding oil and gas wells, shall also be undertaken by a licensed contractor.

SECTION 5.3.1.0.

Exemptions.

- A) Nothing in this chapter shall prevent a person who has not obtained a license pursuant thereto from constructing or plugging a water well on his own or leased property which was intended for use only in a single family house which is his permanent residence, or was intended for use only for watering livestock on his farm; however, that person shall comply with all rules, regulations and standards for constructing and plugging such wells or holes, including registration requirements.
- B) If the Department finds that compliance with all the requirements of this chapter would result in undue hardship, an exemption from any one or more of such requirements may be granted by the Department to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this chapter.

SECTION 5.4.0.0.

ADVISORY COMMITTEE FOR THE REGULATION AND CONTROL OF WATER WELL CONTRACTORS (DRILLERS)

A ten-member advisory committee shall be appointed, in accordance with R.S. 38:3098.6, to serve in an advisory capacity and to make recommendations for the regulation and control of water well contractors (drillers), as defined in this chapter.

The advisory committee shall consist of ten (10) members, as follows:

1. The Secretary of the Department of Transportation and Development, Office of Public Works or his designee,

2. The Secretary of the Department of Natural Resources or his designee,
3. The Secretary of the Department of Health and Human Resources or his designee,
4. The President of the Louisiana Engineering Society or his designee,
5. One representative of the United States Geological Survey,
6. One domestic well driller selected by the Governor from a list of three submitted by the Louisiana Water Well Driller's Association,
7. One municipal and industrial well driller selected by the Governor from a list of three submitted by the Louisiana Water Well Driller's Association,
8. One irrigation well driller selected by the Governor from a list of three submitted by the Louisiana Water Well Driller's Association,
- 9 & 10. Two drillers, at large, selected by the Secretary of the Department of Transportation and Development, Office of Public Works, from the water-well industry as a whole.

All appointments shall be for four year terms. The chairman and vice-chairman shall be elected by the members of the committee (see Section 5.4.1.0.). The committee members who are public employees shall receive no extra pay or allowances for their attendance at the meetings of the advisory committee; all other members of the advisory committee shall receive no salary or per diem but may be compensated for receipted expenses actually incurred in official activities of the committee, approved by the Department, out of funds derived from license fees collected under the provision of this chapter and in accordance with policies adopted by the legislative auditor in such matters.

SECTION 5.4.1.0.

By-Laws and Meetings. The advisory committee shall hold a minimum of one regular meeting each quarter, usually in February, May, August, and November, as specified by the chairman. Notice of the meetings shall be given by the

Department at least fifteen days prior to the meetings. Designated committee members must inform the Department if they are unable to attend a meeting. Committee members do not have the privilege of sending replacements. Six members will be considered as a quorum for transacting business.

The chairman and vice-chairman shall be elected by the members of the committee during the third quarter meeting of each year to serve a term of one year.

A special meeting of the advisory committee may be called by the chairman or by three committee members, upon notification of all members, with five days notice. All notices of regular or special meetings of the committee will be sent to the official addresses of the members, as recorded by the committee.

The chairman shall preside at all meetings of the committee and shall, at any and all hearings of the committee, decide all questions of evidence and procedure, subject to the approval of a majority of the members of the committee present. The chairman or the person occupying the chair shall vote only to break a tie.

In the absence of the chairman and vice-chairman of the committee, the members present shall choose from their number an acting chairman.

In the case of the vacancy of the position of any officer of the committee by reason of death, resignation, disqualification or otherwise, the remaining members of the committee shall, at the next scheduled meeting, elect a successor to serve for the unexpired term.

In the case of the vacancy of any member of the committee by reason of death, resignation, disqualification or otherwise, the committee shall petition appropriate authority to appoint a replacement.

In the case of unexcused absenteeism by any member of the committee, three consecutive unexcused absences from the committee meetings shall be considered a de facto resignation by that member.

SECTION 5.5.0.0.

PROCEDURES FOR OBTAINING AND MAINTAINING A LICENSE

SECTION 5.5.1.0.

License Application. Every person, firm or corporation desiring to engage in the business of drilling or reworking water wells, drilling monitoring wells, heat pump wells or holes, geotechnical boreholes and/or plugging and abandoning wells or holes, excluding oil and gas wells, in the State of Louisiana, shall file an application (see Appendix V) with the Department for a contractor's (driller's) license, using form provided by the Department, setting out qualifications therefore and such other information as may be required by the Department.

The application must be completed in its entirety, notarized and submitted to the Department with the required license fee (see Section 5.5.3.0.). Applications which are not properly completed, notarized, or accompanied with the required license fee or are illegible, will not be accepted by the Department.

Applications received by the Department will be reviewed by the advisory committee during their regular quarterly meetings (see Section 5.4.1.0.). The committee will then recommend to the Department, which applications should be accepted or rejected by the Department.

If an application is approved, the Department will notify the applicant of the date, time and place where he may appear for the licensing examination, as required by Section 5.5.4.0. If the application is rejected, the Department will notify the applicant in writing and will return the license fee if requested by the applicant.

SECTION 5.5.2.0.

License Renewal. All licenses issued by the Department shall expire on June 30 of each year and shall be renewable annually, without qualifying examination, upon submission of a completed license renewal application (see Appendix V), using form provided by the Department, and upon payment of the required license renewal fee (see Section 5.5.3.0.). Renewal applications, together with the required license renewal fees, must be received by the Department no later than June 30 of each year. Such application shall have the effect of extending the validity of the current license until the renewal certificate or the new license is received, or the applicant is notified in writing by the Department that the renewal of license has been refused.

Contractors (drillers) who fail or refuse to submit their license renewal applications with the applicable annual renewal fees to the Department by June 30 of each year or submit their applications with "N.S.F." or "Account Closed" checks, will be considered delinquent and they will be dropped from the roster of licensed drillers. Thereafter, the license may be renewed only upon receipt of the completed renewal application, payment of the applicable renewal fee, plus a penalty of Five (\$5.00) Dollars for each month that the contractor (driller) was delinquent.

Delinquency in excess of one year may, at the discretion of the advisory committee, be deemed as a waiver of the contractor's right for renewal, and if he should apply thereafter, the Department may require that he be considered

as a new applicant, including the requirement for examination. Any person whose license has been revoked may, upon application for a new license, be required, at the discretion of the advisory committee, to take the examination and in all other ways be considered as a new applicant.

SECTION 5.5.3.0.

License And Annual Renewal Fees.

- A) Those persons, firms or corporations who drill or rework water wells, drill monitoring wells, geotechnical boreholes, heat pump wells or holes, and/or plug abandoned wells or holes, excluding oil and gas wells, shall pay a license fee and an annual renewal fee of One Hundred (\$100.00) Dollars.
- B) Those persons, firms or corporations who drill only domestic water wells (as defined in Appendix I) and who drill less than 25 domestic wells annually, shall pay a license fee and an annual renewal fee of Fifty (\$50.00) Dollars.

Fees shall be paid either by check or money order; cash payments will not be accepted. The Department will deposit all fees in a special fund in the office of the State Treasurer to be used for the implementation of this chapter.

A contractor's (driller's) license shall apply to all drillers employed by that contractor. A license fee or an annual renewal fee shall be required for each license issued or renewed.

SECTION 5.5.4.0.

Licensing Examination. Any applicant who submits an application after June 30, 1981 will be required, upon approval of his application, to successfully pass an examination prepared and administered by the Department.

If the application is approved, the Department will notify the applicant of the date, time and place where he may appear for the examination. The examination will be written, and a fee of Ten (\$10.00) Dollars (check or money order only) will be collected from each applicant taking the exam. Any applicant who fails an examination may apply for a subsequent exam but must pay the examination fee each time he takes the exam.

At the discretion of the Department, an applicant may be given an oral exam instead of a written exam. Request for oral examination must be sent to the Department prior to the exam date so that appropriate arrangements can be made.

SECTION 5.5.5.0.

Qualifications and Requirements. To qualify for a license, the applicant must be at least eighteen years of age, be of good moral character, have a minimum of two (2) years of drilling experience under the supervision of a licensed water well contractor or other comparable drilling experience acceptable to the Department, and demonstrate to the satisfaction of the Department, a reasonable knowledge of the Water Well Rules, Regulations and Standards, State of Louisiana. The license application form must state the applicant's work experience and the names and addresses of two licensed contractors (drillers) familiar with the applicant's experience. The advisory committee will review each application received by the Department and will

then make recommendations as to which applications should be accepted or rejected by the Department. The license application must be approved by the Department before the applicant can take the licensing examination.

SECTION 5.5.6.0.

Requirements for Maintaining a License. In order to maintain a Louisiana drilling license, the contractor shall abide by the rules and regulations stated herein as well as all rules and regulations promulgated by the Department for the construction, registration, plugging and abandonment of wells and holes. A drilling license is not transferable and shall only be used by the driller or the contractor who is duly authorized by the Department to use such a license.

SECTION 5.5.6.1.

Record Keeping. The contractor (driller) shall keep accurate records on each well or hole drilled or plugged including, but not limited to, its location, depth, character of formations drilled, fluids encountered and such other reasonable information as the Department may specify. The contractor shall, within thirty (30) calendar days after completion of each well or hole, file a registration or plugging form with the Department as per requirements of Chapters I and III, of the Water Well Rules, Regulations and Standards, State of Louisiana.

SECTION 5.5.6.2.

Vehicle and Equipment Identification

It shall be the responsibility of the licensed contractor to ascertain that the rig(s) and service vehicle(s) used in his drilling operation are plainly and legibly marked with an identification number visible at all times. The identification number to be used shall be the license number of the

contractor responsible for the drilling operation. The license number shall be printed on each side of every rig and service vehicle in numerals of not less than two inches high, in a color sufficiently different from the color of the vehicle so that the number is plainly legible.

SECTION 5.6.0.0.

RECIPROCITY AND RESIDENCY REQUIREMENTS

The Department, upon receipt of an application and the required license fee, will issue a license to any person, firm or corporation who holds a valid driller's license from any other state, provided the standards under which the license was issued are at least equivalent to those of Louisiana and provided that the state which issued the license will accord similar privileges to the licensed Louisiana drillers who may wish to apply for a license from that state.

Residency requirements for out-of-state applications shall be the same as those required for Louisiana drillers in the applicant's state of residency.

SECTION 5.7.0.0.

REVOCATION OF LICENSE

The grounds for revoking a well driller's license shall be as follows (R.S. 38:3098.4):

1. That he has intentionally made a material misstatement in the application for such license; or
2. That he has willfully violated any provisions of this Chapter; or
3. That he has obtained, or attempted to obtain, such license by fraud or misrepresentation; or
4. That he has been guilty of fraudulent or dishonest practices; or

5. That he has demonstrated lack of competence as a driller of water wells; or
6. That he has failed or refused to file reports as required under the provisions of this chapter; or
7. That he has willfully and contumaciously refused to obey reasonable orders, rules and regulations of the Department of Transportation and Development, Office of Public Works.

SECTION 5.8.0.0.

VIOLATIONS AND HEARINGS

Provisions addressing enforcement of this Chapter appear in Louisiana Revised Statute 38:3098.3, as follows:

- A) If the Department of Transportation and Development, Office of Public Works has reasonable grounds for believing that there has been a violation of this chapter or any rules or regulations adopted pursuant thereto, the Department shall give written notice to the person alleged to be in violation and shall conduct a hearing on such alleged violation, such hearing to be conducted in accordance with the Administrative Procedure Act in Title 49. Such notice shall identify the provisions of this Chapter or regulation issued hereunder alleged to be violated and the facts alleged related thereto. The notice shall be served in the manner required by law for the service of process upon a person in a civil action, and may be accompanied by an order of the Department requiring described remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this chapter and regulations issued thereunder. Such order shall become final

within thirty days from the service thereof unless a request for hearing as provided elsewhere in this chapter is made within such time. In lieu of such order, the Department may require the persons named in such notices to appear at a hearing at a time and place specified in the notice.

- B) If the Department of Transportation and Development, Office of Public Works, finds that any provision of this chapter has been violated and that disciplinary action by the Department is insufficient or unavailable, it shall be the duty of the said Department to proceed with enforcement of this chapter by proper proceedings through any court of competent jurisdiction.

Also, in addition to the above, grounds for revoking a driller's license appear in R.S. 38:3098.4 (see Section 5.7.0.0.)

SECTION 5.8.1.0.

Enforcement Actions.

- A) Penalties that are applicable to drillers who have either failed to obtain a license or who have violated any provisions of this chapter appear in Louisiana Revised Statutes 38:3098.7, as follows:

Any person, firm, or corporation who engages in or follows the business or occupation, or advertises, holds itself out, or acts temporarily or otherwise as a well driller without having first secured the required license or renewal thereof, or who otherwise violates any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars and not more than One Thousand

Dollars within the discretion of the court; and each day in which such violation exists or continues shall constitute a separate offense.

In addition to the penalties prescribed herein, any person who violates any order of the Department requiring described remedial action as set out elsewhere in this chapter, which shall specify a time requirement for compliance with such order, shall be subject to a penalty not to exceed One Hundred Dollars for each day such noncompliance continues.

SECTION 5.8.2.0.

Falsification of Documents. Falsification of documents to evade regulations, as well as penalties for said falsifications, appears in Louisiana Revised Statutes 38:3095, as follows:

- A) No person shall, for the purpose of evading this chapter or any rules, regulations or order made thereunder:
 - (1) Make or cause to be made any false entry or statement of fact in any report required to be made by this chapter or by any rule, regulation or order made hereunder; or
 - (2) Make or cause to be made any false entry in any account, record, or memorandum kept by any person in connection with the provisions of this chapter or of any rules, regulation or order made thereunder; or

(3) Remove out of the jurisdiction of the state, or destroy or mutilate, alter, or by any other means, falsify any book, record or other paper, pertaining to the matters regulated by this chapter or by any rule, regulation or order made thereunder.

B) Whoever violates this section shall be fined not more than Five Thousand Dollars or imprisoned not more than six months, or both.

The penalty provision for falsification of documents required under the provisions of this chapter are therefore criminal in nature and must be enforced through the District Attorney having jurisdiction where said violation occurs.

It should also be noted that utilization of the United States Mail in the falsification of documents constitutes a violation of Title 18 of the United States Code (Mail Fraud) and such violations will be referred to the appropriate United States Attorney.

SECTION 5.8.3.0.

Appeals. An alleged violator may appeal any order of the Department by requesting a hearing. The hearing request must be made to the Department, in writing, within thirty (30) calendar days of the original order and must be sent by "Certified Mail -- Return Receipt Requested". After receiving the request, the Department will arrange a hearing to determine what other remedial action will serve to effect compliance with the rules and regulations.

